

The 23rd March, 1995

No 14/13/87-6Lab /429.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s Administrator, Municipal Committee Panipat *versus* S/Shri Daya Nand, Vijay, Rajbir, Ramesh, Nathu, Satbir, Suraj Bhan, Sat Narain, Ravi Ram, Rup Chand, Pawan, Pala Ram, Vinod, Subash, Inder Singh, Raj Kumar, Mahender, Tara Chand, Kanta Ram, Baru Ram, Subash and, Shyam.

IN THE COURT OF SHRI P. L. KHANDUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ROHTAK.

Reference No. 321 of 1994.

between

SHRI DAYA NAND, C/O SHRI KARAN SINGH, GENERAL SECRETARY, ADARSH MUNICIPAL KARAMCHARI UNION, G. T. ROAD, PANIPAT. .. *Workman.*

and

THE MANAGEMENT OF M/S ADMINISTRATOR, MUNICIPAL COMMITTEE, PANIPAT.

2. Reference No. 322 of 1994.

between

SHRI VIJAY, C/O SHRI KARAN SINGH, GENERAL SECRETARY ADARSH MUNICIPAL KARAM-CHARI UNION, G. T. ROAD, PANIPAT. .. *Workman.*

and

THE MANAGEMENT OF M/S ADMINISTRATOR, MUNICIPAL COMMITTEE, PANIPAT.

3. Reference No. 323 of 1994.

between

SHRI RAJBIR, C/O SHRI KARAN SINGH, GENERAL SECRETARY, ADARSH MUNICIPAL KARAMCHARI UNION, G. T. ROAD, PANIPAT. .. *Workman.*

and

THE MANAGEMENT OF M/S ADMINISTRATOR, MUNICIPAL COMMITTEE, PANIPAT.

4. Reference No. 324 of 1994.

between

SHRI RAMESH, C/O SHRI KARAN SINGH, GENERAL SECRETARY, ADARSH MUNICIPAL, KARAMCHARI, UNION, G. T., ROAD, PANIPAT. .. *Workman*

and

THE MANAGEMENT OF M/S ADMINISTRATOR, MUNICIPAL COMMITTEE, PANIPAT.

5. Reference No. 325 of 1994.

between

SHRI NATHU, C/O SHRI KARAN SINGH, GENERAL SECRETARY, ADARSH MUNICIPAL, KARAMCHARI, UNION, G. T. ROAD, PANIPAT. .. *Workman.*

and

THE MANAGEMENT OF M/S ADMINISTRATOR, MUNICIPAL COMMITTEE, PANIPAT.

6. Reference No. 326 of 1994

between

SHRI SATBIR, C/O SHRI KARAN SINGH, GENERAL SECRETARY, ADARSH MUNICIPAL KARAMCHARI UNION, G.T., ROAD, PANIPAT. .. *Workman.*

and

THE MANAGEMENT OF M/S ADMINISTRATOR, MUNICIPAL COMMITTEE, PANIPAT.

7. Reference No. 327 of 1994.

between

SHRI SURAJBHAN C/O SHRI KARAN SINGH GENERAL SECRETARY, ADARSH KARAMCHARI UNION, G.T. ROAD, PANIPAT. .. *Workman.*

and

THE MANAGEMENT OF M/S ADMINISTRATOR, MUNICIPAL COMMITTEE, PANIPAT.

8. Reference No. 328 of 1994.

between

SHRI SAT NARAIN, C/O SHRI KARAN SINGH, GENERAL SECRETARY, ADARSH KARAMCHARI UNION, G.T. ROAD, PANIPAT. .. *Workman.*

and

THE MANAGEMENT OF M/S ADMINISTRATOR, MUNICIPAL COMMITTEE, PANIPAT.

9. Reference No. 329 of 1994.

between

SHRI RAVI RAM, C/O SHRI KARAN SINGH, GENERAL SECRETARY, ADARSH MUNICIPAL KARAMCHARI UNION, G.T. ROAD, PANIPAT. .. *Workman.*

and

THE MANAGEMENT OF M/S ADMINISTRATOR, MUNICIPAL COMMITTEE, PANIPAT.

10. Reference No. 330 of 1994

between

SHRI RUP CHAND, C/O SHRI KARAN SINGH, GENERAL SECRETARY, ADARSH KARAMCHARI UNION, G.T. ROAD, PANIPAT. .. *Workman.*

and

THE MANAGEMENT OF M/S ADMINISTRATOR, MUNICIPAL COMMITTEE, PANIPAT.

11. Reference No. 331 of 1994

between

SHRI PAWAN, C/O SHRI KARAN SINGH, GENERAL SECRETARY, ADARSH KARAMCHARI UNION, G.T., ROAD, PANIPAT. .. *Workman.*

and

THE MANAGEMENT OF M/S ADMINISTRATOR, MUNICIPAL COMMITTEE, PANIPAT.

12. Reference No. 332 of 1994

between

SHRI PALA RAM C/O SHRI KARAN SINGH, GENERAL SECRETARY, ADARSH MUNICIPAL KARAMCHARI UNION, G. T. ROAD, PANIPAT. .. *Workman.*

and

THE MANAGEMENT OF M/S ADMINISTRATOR, MUNICIPAL COMMITTEE, PANIPAT.

13. Reference No. 333 of 1994

between

SHRI VINOD C/O SHRI KARAN SINGH, GENERAL SECRETARY, ADARSH MUNICIPAL KARAMCHARI UNION, G. T. ROAD, PANIPAT. .. *Workman.*

and

THE MANAGEMENT OF M/S ADMINISTRATOR, MUNICIPAL COMMITTEE, PANIPAT.

14. Reference No. 334 of 1994

between

SHRI SUBHASH C/O SHRI KARAN SINGH, GENERAL SECRETARY, ADARSH MUNICIPAL KARAMCHARI UNION, G. T. ROAD, PANIPAT. .. *Workman.*

and

THE MANAGEMENT OF M/S ADMINISTRATOR MUNICIPAL COMMITTEE, PANIPAT.

15. Reference No. 335 of 1994

between

SHRI INDER SINGH C/O SHRI KARAN SINGH, GENERAL SECRETARY, ADARSH MUNICIPAL KARAMCHARI UNION, G. T. ROAD, PANIPAT. .. *Workman.*

and

THE MANAGEMENT OF M/S MUNICIPAL COMMITTEE, PANIPAT, THROUGH AD.

16. Reference No. 336 of 1994

between

SHRI RAJ KUMAR C/O SHRI KARAN SINGH, GENERAL SECRETARY, ADARSH KARAMCHARI UNION G. T. ROAD, PANIPAT. .. *Workman.*

and

THE MANAGEMENT OF M/S ADMINISTRATOR, MUNICIPAL COMMITTEE, PANIPAT.

17. Reference No. 337 of 1994

between

SHRI MAHENDER C/O SHRI KARAN SINGH, GENERAL SECRETARY, ADARSH MUNICIPAL KARAMCHARI, UNION, G. T. ROAD, PANIPAT. .. *Workman.*

and

THE MANAGEMENT OF M/S ADMINISTRATOR, MUNICIPAL COMMITTEE, PANIPAT.

18. Reference No. 338 of 1994

between

SHRI TARA CHAND C/O SHRI KARAN SINGH, GENERAL SECRETARY, ADARSH KARAMCHARI UNION, G. T. ROAD, PANIPAT. .. *Workman.*

and

THE MANAGEMENT OF M/S ADMINISTRATOR, MUNICIPAL COMMITTEE, PANIPAT.

19. Reference No. 339 of 1994

between

SHRI KANTA RAM C/O SHRI KARAN SINGH, GENERAL SECRETARY, ADARSH KARAMCHARI UNION, G. T. ROAD, PANIPAT. .. *Workman.*

and

THE MANAGEMENT OF M/S ADMINISTRATOR, MUNICIPAL COMMITTEE, PANIPAT.

20. Reference No. 340 of 1994

between

SHRI BARU RAM C/O SHRI KARAN SINGH, GENERAL SECRETARY, ADARSH KARAMCHARI UNION, G. T. ROAD, PANIPAT. .. *Workman.*

and

THE MANAGEMENT OF M/S ADMINISTRATOR, MUNICIPAL COMMITTEE, PANIPAT.

21. Reference No. 384 of 1994

between

SHRI SUBHASH S/O SHRI RAM DHARI, VILLAGE GARH SARNAI, P. O. PUNDRI, DISTRICT PANIPAT. .. *Workman.*

and

THE MANAGEMENT OF M/S PRESIDENT, MUNICIPAL COMMITTEE, PANIPAT.

Reference No. 385 of 1994.

between

SHRI SHYAM C/O SHRI KARAN SINGH, GENERAL SECRETARY, ADARSH MUNICIPAL KARAMCHARI UNION, G. T. ROAD, PANIPAT .. *Workman.*

and

THE MANAGEMENT OF M/S ADMINISTRATOR, MUNICIPAL COMMITTEE, PANIPAT.

Present :

Shri Karan Singh, Authorised Representative for the workmen.

Shri R. S. Giroh, Authorised Representative for the management.

AWARD

All the cases have been consolidated and the evidence have been recorded in the case of Daya Nand *versus* M/s. Municipal Committee, Panipat,—*vide* order dated 25th January, 1994.

2. In exercise of powers conferred by Sub Clause (c) of sub section (1) of Section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana has referred the following disputes between the parties, named above to this Court for adjudication,—*vide* Labour Department :—

Whether the termination of services of the Daya Nand and others workmen are justified and and in order ? If not, to what relief are they entitled ?

3. The workmen and the management were summoned. The workmen Daya Nand appeared and filed his claim statement that he was appointed as Safai Karamchari on 1st January, 1989 at the pay of Rs. 800 P. M. and his services were terminated on 8th October, 1991 without giving any notice, chargesheet or paying him any retrenchment compensation. The workman on other hand alleged that they were good workmen and there was no complaint against them. The workman has given demand

notice dated 12th July, 1991 of which the management has not made him regular and had terminated his services. The post of the workman is permanent post and after his removal the management appointed some other persons in contravention of Section 25-H of the Industrial Dispute Act. Hence this claim statement was filed. Subhash workman has claimed in his demand notice that he was appointed by the respondent on 1st January, 1990 and his services were terminated,—*vide* order dated 5th March, 1992 which are illegal and liable to be set aside.

4. The claim made by the other workmen are like the claim of that of Daya Nand.

5. The management appeared and filed the written statement that the workmen have no *locus standi* to file the present claim petition and as such liable to be dismissed ; the petitions are vague and indefinite as the same neither discloses the details of period of his alleged employment with the answering respondent nor the claimant's own full particulars besides no cause of action against the answering respondent the claim petitions have not been filed by a duly authorised person as the workmen have neither specifically authorised the workmen have deliberately and intentionally concealed many material facts and truth from this Court ; the workmen alongwith other workmen have earlier filed a civil suit titled as Satbir Singh etc. *versus* M/s. M. C. Panipat for similar relief which is still pending in the Court of Shri A. K. Jain, S. J. I. C., Panipat. Thereafter a writ petition No. 17478 of 1998 was filed in the Punjab and Haryana High Court at Chandigarh which was also dismissed but he concealed these material facts deliberately and intentionally from the Court and as such the claim of the workmen is liable to be dismissed but he concealed these material facts deliberately and intentionally from the Court and as such the claim of the workmen is liable to be dismissed. The respondent has engaging some sweepers in the past purely on daily rated basis in the exigencies of work for a short period irregularly and the workman has been one of them for a short period but the same neither entitled him for regularisation in services of respondent nor for any other relief claimed for under the provision of the Industrial Dispute Act, 1947. Reply to the demand notice filed by the answering respondent before Labour Officer-cum-Conciliation Officer, Panipat may also be read as part and parcel of this reply. The workman was never appointed of regular post of the pay of 800. Infact the workman has worked with the respondent as a sweeper, on purely daily wages intermittantly in the exigencies of work only for a period for 148 days during the preceding 12 months i. e. May, 1990 to April, 1991 which does not entitle him the relief claimed for. Provisions of Section 25-H of the Industrial Dispute Act are not violated in any way. Hence the petitions of the workmen be dismissed with costs.

6. Replications were filed by the workmen. On the pleadings of the parties, the following issues were framed :—

- (1) As per terms of reference ?
- (2) Relief.

7. My findings on the above issues with reasons are as under :—

Issues No. 1 :

8. The workman has come into witness box as WW-1 and also examined Shri Niti Sen Bhatia as WW-2 who deposed that he issued the certificate Ex. WW-1. Statement of Puranjit Chief Sanitary Inspector has been record as MW-1 who made the statement that as work requires the management used to appoint daily wagers and he produced the same record which is Ex. M-1. He also made the statement that the workmen had worked from January, 1989 to October, 1991 and no worker had completed 240 days in service in 12 calendar months. He also made statement that after the removal of the workmen no any other worker was appointed by the management. He also made the statement that Shri Niti Sen Bhatia has been president of the respondent and Ex. WW-1 has been signed by Niti Sen.

9. The workman Daya Nand made the statement that after the removal some other workers, namely Dharma and Ramesh were appointed as workmen. He has not been suggested that no such workmen namely Dharma and Ramesh were appointed after their removal. It is no evidence at all by the management that no such person Dharma and Ramesh were appointed after removal of the workmen. It is as such proved from the statement of Daya Nand that Dharma and Ramesh etc. were appointed after they were removed from the services.

10. Shri Niti Sen Bhatia had issued certificate Ex. WW-1. It is true that the same is no on letterpad of the respondent committee. Ex. W-1 is the character certificate to the effect that the workers have been working as Safai Karamchari during the year, 1989 to 1991 and their work and conduct has always been satisfactory. He has not given the statement that their services are for less than 240 days. Now I am to consider that the workman have served for more than 240 days in a year or not. It is true that all the workers had form a union and because of the union activities the services were terminated. After the respondent has appointed these 22 workmen and after their removal the respondent accept the statement of Daya Nand as true that after their removal Dharma and Ramesh etc. were employed as Safai Karamchari.

11. If these workers are members of the Union they need did not form any union though the workers have been in the union so their right are not be infringed Niti Sen Bhatia WW-2 Ex -President had issued the certificate that work and conduct of the workmen has always been good. If these workmen are doing satisfactory work and their removal has taken place, it means that they were removed from job because of union activities. No person can be removed unless it is proved that their work is antinational, antistate or anticommittee.

12. Even if it is not proved that the workmen had served for more than 240 days of service they are liable to get the job as has been held in case of *Raghbir Singh versus The State of Haryana* through the Secretary, Revenue Department, Haryana, Chandigarh and another, cited in 1990 (1) RSJ, 304, holding that service being terminated so that he may not complete 240 days Service of Government employee cannot be terminated so as to deprive him of the right to acquire status of regular employee. It was also held in case of *Ramana Dayaram Shetty versus The International Airport Authority of India and other*, cited in AIR, 1979 Supreme Court 1628 and AIR 1989 Supreme Court, 487.

13. From the facts that as the workmen had served for more than 240 days in a year though respondent is denying that the workmen had served for more than 240 days in 12 calendar months. I am holding it so because the workmen had been serving the management for about three years. It can not be presumed though might have served the respondent for less than 240 days. As such I am of the view the workman have served for more than 240 days in a year. The retrenchment has taken place but had not complied with Section 25-F of the Industrial Dispute Act, I, therefore, set aside the order and hence I decide this issue in favour of the workmen.

Issue No. 2 (Relief):

14. In view of my findings on the above issue I accept the reference petition and claim statement of the workmen and I hold that the workmen are entitled to the job with continuity of service but with 50% (Fifty) of back wages. The reference is answered and returned accordingly. However, the parties left to bear their own cost. A copy of this award be placed on all remaining file.

P. L. KHANDUJA,

The 13th February, 1995.

Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.

Endorsement No. reference 321-94/299, dated the 22nd February, 1995.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh.

P. L. KHANDUJA,

Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.

The 22nd March, 1995

No. 14/13/87-6Lab./452.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court-Jt, Faridabad in respect of the dispute between the workmen and the management of Transport Commissioner, Haryana, Chandigarh versus Ram Das

IN THE COURT OF SH. U. B. KHANDUJA, PRESIDING OFFICER, LABOUR COURT-II,
FARIDABAD

Reference No. 256/93

between

THE MANAGEMENT OF TRANSPORT COMMISSIONER, HARYANA, CHANDIGARH,

2. GENERAL MANAGER, HARYANA ROADWAYS, FARIDABAD

and

THE WORKMAN NAMELY SH. RAM DAS S/O SHRI KHUSHI RAM C/O SHRI BHIM SINGH YADAV, INTAK, UNION OFFICE, 65-A, CHAWALA COLONY, 100, FOOT ROAD, BALLABGARH

Present :

Sh. B. S. Yadav, for the workmen.

Sh. Jagbir Singh, for the management.

AWARD

In exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act'), the Governor of Haryana referred the following dispute between the parties mentioned above, to this court for adjudication,—*vide* Haryana Government Endorsement No. 3856—62, dated the 29th January, 1990 :—

Whether the termination of services of Shri Ram Das is legal and justified? If not, to what relief, is he entitled to?

2. Briefly stated the case of the workman as embodied in the demand notice dated 18th September, 1989 is that he was appointed as chowkidar in Haryana Roadways, Gurgaon in the year 1964 and worked there upto 31st March, 1981. He was transferred to Faridabad depot with effect from 1st April, 1981 and has been discharging his duties to the satisfaction of his officers till 22nd November, 1987. On 23rd November, 1987 he was placed under suspension and was issued chargesheet dated 1st January, 1988. He submitted his reply indicating true position but still domestic enquiry was ordered. The enquiry officer did not conduct the enquiry following the rules of natural justice and submitted his report. He was not paid suspension allowance with effect from 1st July, 1988. He requested the respondent through several letters for payment of suspension allowance as well as for his reinstatement but to no effect. His services were thus, illegally terminated with effect from 1st July, 1988. Consequently, he is entitled to be reinstated in to services with continuity in service and full back wages.

3. The respondent No. 2 submitted written statement dated 2nd April, 1991 stating therein that the reference is bad as the services of the workman were never terminated and was still in service presently posted at Delhi. It was further mentioned that the workman was reinstated into service,—*vide* order dated 7th July, 1988 during the pendency of enquiry but he had not resumed duty despite the fact that several letters were written to him. In the end, it was mentioned that the workman was paid subsistence allowance during the period from 23rd November, 1987 to 30th June, 1990. He was not paid suspension allowance thereafter because of his reinstatement with effect from 1st July, 1990.

4. The workman did not file rejoinder.

5. However, on the pleadings of the parties, the following issues were framed :—

(1) Whether the termination of services of Shri Ram Das is legal and justified? If not, to what relief, is he entitled to? (As per terms of reference).

(2) Relief.

6. Both the sides have led evidence.

7. I have heard the authorised representatives of both the parties and have also gone through the evidence on record. My findings on the aforesaid issues are as follows :—

Issue No. 1 :

8. It appears from the documents produced by the respondents that on 12th November, 1987 the workman was on duty as Chowkidar in the condemned vehicles yard of the workshop. He was to remain on duty from 4 p.m. to 12 p.m. (night). He was found absent at 8.20 p.m. as per report Ex. M-1. There was no body to look after the condemned vehicles. The workman had returned at 9 p.m. under the influence of liquor. On the basis of this report Ex. M-1 the workman was placed under suspension,—*vide* order dated 23rd December, 1987 Ex. M-2. He was served with charge sheet dated 1st January, 1988 Ex. M-3. The workman submitted his reply to the chargesheet dated 20th January, 1988 Ex. M-4. It was not considered satisfactory and enquiry officer was appointed,—*vide* order dated 23rd February, 1988 Ex. M-5. The workman appeared before the enquiry officer and he conducted the enquiry on 2nd June, 1988 and then on 21st July, 1988. The enquiry officer submitted his report dated 12th September, 1988 Ex. M-9. Then show cause notice dated 27th October, 1988 Ex. M-10 was issued to the workman for showing cause as why his services should not be terminated. He submitted his reply dated 18th November, 1988. Ex. M-12. Thereafter letter dated 6th December, 1988 Ex. M-13. was issued to the workman for personal hearing. Lastly, the respondent No. 2 issued a letter dated 13th January, 1989 Ex. M-15 imposing penalty of stopping of two increments with cumulative effect and also restricting the payment of suspension allowance to subsistence allowance for the period from 23rd November, 1987 to 7th July, 1988 to the amount already paid.

9. On the other hand, the workman has placed on record, five documents namely copy of suspension order dated 23rd November, 1987 Ex. W-1 and copies of applications dated 27th June, 1988 16th September, 1988, 24th March, 1989 and 31st April, 1989 Ex. W-2 to Ex. W-5.

10. On the basis of aforesaid evidence, it has been submitted on behalf of the respondent that it stands established that the services of the workman were never terminated by him. That being so, the reference is b.d. Consequently, the workman is not entitled to any relief.

11. On the other hand, it has been submitted on behalf of the workman that the workman was neither paid subsistence allowance after 1st July, 1988 nor any order for his reinstatement was issued till he was transferred to Delhi on 15th September, 1989. Thus, the workman had rightly presumed from the factum of non-payment of suspension allowance and non-issuance of order for reinstatement that his services had been terminated. The respondents have failed to prove that the alleged order of reinstatement dated 7th July, 1988 was ever served upon the workman. Consequently, the workman is entitled to full wages for the period from 1st July, 1988 to 15th September, 1988 and also to the benefits of continuous services for this period.

12. The reference made by the Government is whether the termination of services of the workman is legal and justified. It clearly emerges from the position discussed above that the services of the workman were never terminated by the respondents. The workman served the demand notice presuming that his services had been terminated and the Government made the reference. It is thus, infraeius. It cannot be decided being beyond the scope of reference as to whether the workman was actually reinstated or not on 7th July, 1988, i.e. being placed under suspension,— *vide* order dated 23rd November, 1987 Ex. M-2. The reference is answered accordingly.

The 6th March, 1995.

U. B. KHANDUJA,

Presiding Officer,
Labour Court-II,
Faridabad.

Endorsement No. 317, dated the 8th March, 1995.

A copy, with three copies, is forwarded, to the Financial Commissioner and Secretary to the Government, Haryana, Labour Department, Chandigarh.

U. B. KHANDUJA,

Presiding Officer,
Labour Court-II,
Faridabad.

The 20th April, 1995

No. 14/13/87-6Lab./548.— In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Hisar in respect of the dispute between the workman and the management of Engineer-in-Chief, Public Health, Water Works, Haryana, Chandigarh *versus* Ram Phal.

BEFORE SHRI B. R. VOHRA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, HISAR

Reference No. 224 of 93

Date of receipt .. 2-11-93
Date of decision .. 15-3-95

SHRI RAM PHAL, S/O MANGE RAM PALMIKI, R.O. ASPAWA, TEHSIL ALAMPUR,
DISTRICT HISAR

.. *Applicant*

versus

1. ENGINEER-IN-CHIEF, PUBLIC HEALTH, WATER WORKS, HARYANA,
CHANDIGARH
2. S.D.O., PUBLIC HEALTH, WATER WORKS, HISAR.
3. XEN, PUBLIC HEALTH, WATER WORKS, HISAR.

.. *Respondents*

Present :

Shri Ram Phal, Workman in person.

Shri R. P. Sharma, S.D.O. for Management.

AWARD

In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 the Governor of Haryana referred the following dispute between Ram Phal and the above mentioned for adjudication,—*vide* Labour Department, letter No. 41526—31, dated 20th October, 1993 :—

Whether the termination of services of Ram Phal is justified and in order. If not, to what relief is he entitled ?

2. The case of the petitioner is that his services were terminated by the management on 30th April, 1993 in an illegal manner.

3. The case was being contested and was fixed for 19th April, 1995. When today the parties made a written request for putting up their case and recording of their statements. The file was put up and the statements of the parties were recorded.

4. In view of the statements of the parties recorded today, the management agreed to take the petitioner on duty, giving him benefit of continuity of service, within two weeks. The petitioner has given up his claim of back wages. Thus, no dispute survives for adjudication. The reference is answered accordingly, with no order as to costs.

B. R. VOHRA,

The 15th March, 1995.

Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Hisar.

Endorsement No. dated

A copy, with two spare copies, is forwarded to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh for necessary action.

B. R. VOHRA,

Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Hisar.

No. 14/13/87-6Lab./549.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Hisar in respect of the dispute between the workman and the management of Secretary, Forest Department Haryana, *versus* Rajender Prashad Sharma.

BEFORE SHRI B.R. VOHRA, PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, HISAR.

Reference No. 125 of 93

Date of receipt .. 16-7-93.

Date of decision .. 13-3-95.

SHRI RAJENDER PRASHAD SHARMA S/O HAR BILAS SHARMA, VILLAGE KHARAK
KALAN, TEH. AND DISTT. BHIWANI .. *Applicant*

versus

1. THE SECRETARY, FOREST DEPARTMENT, HARYANA
2. DISTT. FOREST OFFICER, BHIWANI
3. RANGE OFFICER, FOREST DEPARTMENT SIVANI .. *Respondent-Management*

Present:

Shri S. S. Gupta, for the workman

Shri Sita Ram, ADA, for the management.

AWARD

In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (for short, 'the Act') the Governor of Haryana referred the following dispute between Rajender Prashad Sharma and the above mentioned management for adjudication to this Court,—*vide* Labour Department letter No. 22294—301, dated 24th June, 1993:—

Whether termination of services of Rajender Prashad Sharma is justified and in order ? If not, to what relief is he entitled ?

2. According to the workman, he was appointed as Driver on 16th June, 1989 and had worked as such till 31st July, 1991 at Siwani Office and thereafter till 20th June, 1992 at Bhiwani Office, when he was told by respondent No. 2 that his services were no longer required, although no written order was given to him. He claimed that termination of his services amounted to "retrenchment", being in violation of section 25-F of the Act. The workman, also claimed that the respondents have also violated the provisions of sections 25-G and 25-H of the Act by retaining Juniors and by making subsequent appointments. He therefore, prayed for reinstatement, with full back wages and other consequential benefits.

3. The management, in its written statement, pleaded that the petitioner was appointed as Tractor Driver on daily wages on 16th June, 1989 and he worked as such upto 6th June, 1992 and thereafter, he left the job himself. It was further pleaded that provisions of the Act were not applicable to the respondents and therefore, the petitioner is not entitled to any relief.

4. On the above pleading of the parties, the following issues were framed on 29th October, 1993 by my learned predecessor :—

1. Whether termination of services of Rajender Prashad Sharma is justified and in order? If not, to what relief is he entitled?

2. Relief :

5. The parties led evidence in support of their rival claims. I have heard Shri S.S. Gupta, A. R. of the workman and Shri Sita Ram, ADA on behalf of the management and have gone through the case file. My findings on the above issues are as under :—

Issue No. 1 :

6. Rajender Prashad workman appeared as WW-1 and has stated that he was appointed on 16th June, 1989 as Tractor Driver and had worked as such upto June, 1992. No further stated that no notice was given to him, nor any retrenchments compensation was paid to him.

7. Rajender Kumar was examined as MW-1 and he stated on oath that the petitioner had worked as Tractor Driver from 16th June, 1989 to June, 1992. He adduced in evidence, the statement showing details of total working days of the petitioner as Ex. M-1. He admitted in his cross-examination that no notice was given to the workman, nor any retrenchment compensation was paid to him.

8. A perusal of Ex. M-1 would show that the petitioner had worked for 366 days during the preceding 12 months and thus, he was protected under the provisions of the Act. As the workman has worked for more than 240 days, the management was duty bound to comply with the provisions of section 25-F of the Act. The management did not do so. The non compliance of mandatory provisions of the Act, has rendered the termination of services of the petitioner as illegal and the petitioner is entitled to reinstatement, with full back wages and other consequential benefits.

9. The contention of the A. R. of the management that the petitioner had himself left the job, can not be accepted, because the management has failed to produce any cogent evidence to prove its plea. It, therefore, cannot be said that the petitioner had left the job himself.

10. In view of the above discussion, this issue is answered in favour of the workman.

Issue No. 2-Relief :

11. In view of my findings on above issue, the termination of services of the petitioner is held as illegal. The same is hereby set-aside. The petitioner is reinstated in the same post forthwith, with full back wages and benefit of continuity of service and other consequential benefits. The reference is answered accordingly, with no order as to costs.

B. R. VOHRA,

The 13th March, 1995.

Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Hisar.

Endorsement No. Dated:

A copy, with two spare copies, is forwarded to the Financial Commissioner and Secretary to Government, Haryana, Labour & Employment Department, Chandigarh for necessary action.

B. R. VOHRA,

Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Hisar.